

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

**GNLV CORP. d/b/a GOLDEN NUGGET
LAS VEGAS**

Employer

and

Case 28-RC-216070

**GENERAL TEAMSTERS, AIRLINE, AEROSPACE
AND ALLIED EMPLOYEES, WAREHOUSEMEN,
DRIVERS, CONSTRUCTION, ROCK AND SAND,
LOCAL 986, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS**

Petitioner

DECISION AND DIRECTION OF ELECTION

General Teamsters, Airline, Aerospace and Allied Employees, Warehousemen, Drivers, Construction, Rock and Sand, Local 986, affiliated with Teamsters Local 986 (Petitioner) seeks to represent a unit of front desk and VIP services employees employed by GNLV Corp. d/b/a Golden Nugget Las Vegas (the Employer) at its hotel and casino in Las Vegas, Nevada. The Employer contends that the petitioned-for unit is inappropriate and that the smallest appropriate unit must encompass all employees in its hotel operations department, which includes reservations and telecommunications employees in addition to the employees in the petitioned-for unit. The petitioned-for unit includes approximately 48 employees, and the unit the Employer contends is appropriate includes approximately 65 employees.

A hearing officer of the National Labor Relations Board (the Board) held a hearing in this matter, and the parties orally argued their respective positions prior to the close of the hearing.¹ As explained below, in accordance with *PCC Structural, Inc.*, 365 NLRB No. 160 (2017), based on an application of the Board's traditional community-of-interest standard, I find that the employees in the petitioned-for unit share a community of interest sufficiently distinct from the interests of employees excluded from the petitioned-for unit to warrant a finding that the petitioned-for unit constitutes a separate appropriate unit. I am therefore directing an election in the petitioned-for unit.

¹ The Hearing Officer's rulings made at the hearing and referenced herein are free from prejudicial error and are affirmed.

I. THE EMPLOYER'S OPERATIONS

The Employer operates a hotel and casino in Las Vegas, Nevada. The employees in the petitioned-for unit and those the Employer contends must also be included in the smallest appropriate unit all perform work for the Employer's hotel operations, as opposed to its casino operations.

The Employer's Director of Hotel Operations oversees hotel operations and supervises the Room Reservations Manager, Reservations Analyst, Telecommunications Manager, Hotel Manager, and VIP Services Manager. The Reservations Analyst is a single employee who prepares performance-based statistics and does not oversee other employees.

The Hotel Manager oversees the hotel management division, which includes 7 Assistant Front Desk Managers, 40 guest services representatives, and 2 hotel night auditors.² The VIP Services Manager oversees the VIP services division, which includes 6 VIP services representatives. The Room Reservations Manager oversees the room reservations division, which is comprised of reservation sales agents, quality assurance analysts, telemarketing representatives, groups and wholesale agents/project leads, e-communications specialists, and guest services call center agents. The Telecommunications Manager oversees the telecommunication division, which is comprised of a PABX³ assistant manager, two PABX lead attendants, and PABX attendants. Several classifications of the Employer's employees use a third-party software called Lodging Management System (LMS) in varying degrees.

The Employer's hotel operations are generally conducted in four towers at the Employer's property, including the Spa Tower where room reservations employees are located; the Gold Tower where the main lobby and front desk/VIP management offices are located; and the Rush Tower where guest rooms and a second front desk area are located.

II. RELEVANT LEGAL AUTHORITY

In determining whether a petitioned-for unit is appropriate for purposes of collective bargaining, the Board applies its traditional community-of-interest standard, under which it assesses "whether the employees in a petitioned-for group share a community of interest sufficiently distinct from the interests of employees excluded from the petitioned-for group to warrant a finding that the proposed group constitutes a separate appropriate unit." *PCC Structural, Inc.*, 365 NLRB No. 160 at slip op. at 5. In making unit determinations, the Board aims to foster efficient and stable collective bargaining. *Gustave Fisher, Inc.*, 256 NLRB 1069 (1981). However, the unit sought for collective bargaining need only be an appropriate unit, and not the ultimate, or the only, or even the most appropriate unit. *Overnite Transportation*

² The employees in the petitioned-for unit and the additional employees the Employer contends must be included were referenced using various titles at different points in the record. For instance, the terms "guest services representatives" and "front desk agents" and the terms "VIP services representatives" and "VIP agents" were used interchangeably. For purposes of this decision, I have used the job titles listed on job descriptions maintained by the Employer, when available.

³ private automatic branch exchange.

Co., 322 NLRB 723, 723 (1996); *Wheeling Island Gaming*, 355 NLRB 637, 637 n.1 (2010). Thus, after determining that employees within a particular grouping with each other, the Board then examines “whether ‘excluded employees have meaningfully distinct interests in the context of collective bargaining that *outweigh* similarities with unit members.’” *PCC Structural, Inc.*, 365 NLRB No. 160, slip op. at 11 (emphasis in original) (quoting *Constellation Brands U.S. Operations, Inc. v. NLRB*, 842 F.3d 784, 794 (2d Cir. 2016)). Once this determination is made, “the appropriate-unit analysis is at an end.” *PCC Structural, Inc.*, 365 NLRB No. 160, slip op. at 13.

The Board considers the following community-of-interest factors in making this assessment:

whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer’s other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.

PCC Structural, Inc., at slip op. at 6 (citing *United Operations*, 338 NLRB 123 (2002)).

The Board has overruled the holding of *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934 (2011), enfd. sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013), that once a petitioner has made an initial showing that the employees in the petitioned-for employees are a readily identifiable group and share a community of interest with each other, the burden shifts to the employer to show the employees it seeks to include share an overwhelming community of interest with the petitioned-for employees. *PCC Structural, Inc.*, 365 NLRB No. 160 at slip op. at 13. The Board instead simply allows that “parties who believe that a petitioned-for group improperly excludes employees whose interests are not sufficiently distinct from those of employees within the proposed group will [...] introduce evidence in support of their position.” *Id.*

Additionally, when applicable, the above analysis should consider the Board’s established guidelines for appropriate unit configurations in specific industries. *PCC Structural, Inc.*, 365 NLRB No. 160, slip op. at 11. The Board makes unit determinations in the hotel/motel industry on a case-by-case basis, utilizing the same traditional community-of-interest criteria used in other industries. See *Omni International Hotel*, 283 NLRB 475, 475 (1987). Applying those criteria, the Board has held that units comprised of front desk employees are appropriate. See *Dinah’s Hotel and Apartments*, 295 NLRB 1100, 1100 (1989).

III. APPLICATION OF RELEVANT LEGAL AUTHORITY TO THE RECORD EVIDENCE

A. Organization of the Hotel

An important consideration in any unit determination is whether the proposed unit conforms to an administrative function or grouping of an employer's operation. Generally the Board would not approve a unit consisting of some, but not all, of an employer's production and maintenance employees. See, *Check Printers, Inc.* 205 NLRB 33 (1973). However, in certain circumstances the Board will approve a unit in spite of the fact that other employees in the same administrative grouping are excluded. *Home Depot USA*, 331 NLRB 1289, 1289, 1291 (2000).

In this case, the unit sought by Petitioner conforms to an administrative function or grouping within the employer's operations. Petitioner seeks to represent employees from two distinct divisions in the hotel operations department: the hotel management division (guest services representatives and hotel night auditors) and the VIP services division (VIP services representatives). Although these two divisions are separate from each other and belong to a department that includes two other divisions, these two divisions, together, are distinct from the others in that, as discussed below, they handle in-person guest interactions.

B. The Nature of Employee Skills and Functions

This factor examines whether disputed employees can be distinguished from one another on the basis of job functions, duties or skills. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that employees perform the same basic function or have the same duties, that there is a high degree of overlap in job functions or of performing one another's work, or that disputed employees work together as a crew support a finding of similarity of functions. Evidence that disputed employees have similar requirements to obtain employment, have similar job descriptions or licensure requirements; participate in the same employer training programs, and use similar equipment supports a finding of similarity of skills. *Casino Aztar*, 349 NLRB 603 (2007); *J.C. Penny Company, Inc.*, 328 NLRB 766 (1999); *Brand Precision Services*, 313 NLRB 657 (1994); *Phoenician*, 308 NLRB 826 (1992). Where there is also evidence of similar terms and conditions of employment and some functional integration, evidence of similar skills and functions can lead to a conclusion that disputed employees must be in the same unit, in spite of lack of common supervision or evidence of interchange. *Phoenician*, supra.

In this case, the evidence shows that the petitioned-for employees have separate job functions, duties, and skills from the employees the Employer contends must be included. Specifically, guest services representatives' primary responsibilities are to welcome and check in guests who have reservations or walk up to inquire about staying at hotel. They check in guests, obtain credit card information, authorize any additional payments that need to be collected, and document any special requests that guests may have. The Employer also tasks

them with addressing guest concerns, issues, or problems. During guests' departure, guest services representatives are responsible for checking out the guest, preparing and printing a folio for the guest or emailing it to the guest, and wishing the guest fond farewell. They use the LMS system to access guest names, dates of stays, guest email addresses, types of rooms booked, rates, and any special notes or information from reservations on computers at the front desk. They wear uniforms consisting of black skirt, black blazer, and gold vest for women and black pants, black blazer, white shirt, and gold tie for men.

Hotel night auditors are responsible for supporting front desk operations during the overnight (graveyard) shift. They are responsible for "rolling" the date of the hotel, which consists of using a 3- to 4-page task lists to ensure that room rates and taxes are posted correctly in the LMS system and to change records over for the next day. They also put together a report about the previous day's statistics for the Employer's revenue team. In addition to performing these auditing functions, night auditors keep their manager informed of any guest complaints or situations needing special assistance and check guests in and out two days a week. Night auditors wear the same uniforms as front desk agents and VIP agents when they are working at the front desk but wear business casual clothing when not working at the front desk.

VIP services representatives are responsible for checking in and out VIP guests by looking up their reservations, adding any missing information, putting their credit cards on file, and collect any necessary deposits. Like guest services representatives, they use the LMS system in performing this function. They also assist VIP guests with any and all services they require while staying at the hotel, including booking limos for their use on occasions. They essentially share the same responsibility as the front desk agents but cater to a more specific clientele, including casino guests, guests invited by the executive team, or guests otherwise designated as VIPs. VIP services representatives in the Gold Tower wear uniforms similar to those of the guest services representatives. Those in the Rush Tower wear a brown jacket, brown shirt, and a red tie.

Conversely, the record evidence shows that the employees whom the Employer seeks to include the unit have distinct job functions, duties, and skills. Specifically, reservation sales agents are responsible for taking incoming calls from guests who are inquiring about the Golden Nugget Las Vegas, Golden Nugget Lake Charles, and Golden Nugget Biloxi and selling guests on booking reservations at those properties. They also process casino reservation extensions when the casino host is unable to qualify the extensions. They created and record reservations in the LMS system. They also put marketing materials in guests' key packets at the front desk. They are not required to wear uniforms and wear business casual clothing.

Guest services call center agents deal primarily with in-house guests who have already checked into their rooms. Specifically, they handle calls from in-house guests related to their room reservations, such as calls about billing, check out, extending stays, and changing rooms. They use the LMS system in performing their work. They only wear uniforms when asked to help at the front desk.

Quality assurance analysts are responsible for monitoring phone calls at the respective call centers. They use a point system to score the calls according to the Employer's service standards. They enter the points into a computerized system that can be accessed by managers, and managers use the scores to evaluate employees' performance. They also perform duties related to the auditing function, such as deposit cashiering.

PABX attendants answer incoming calls for Golden Nugget Las Vegas and Golden Nugget Atlantic City. There are approximately 22 or 23 PABX attendants. Their primary responsibility is to receive those calls and to direct them based on what the guest is requesting. They also perform a dispatching function in the event there is any emergency that needs to be addressed. In addition, they operate a wake-up call clock. They use the LMS system and radios in performing their work. They wear business casual clothing. Additionally, PABX lead attendants are responsible for supervising the PABX attendants, ensuring pre-shifts are reviewed daily, monitoring maintenance and security radio/alarm equipment, and updating operator information.

Telemarketing representatives are responsible for making outbound calls to current, former, and prospective casino guests to inform them of casino promotions, hotel packages, and other related information. They wear business casual attire.

One employee holds e-communications specialist position. The Employer tasks the e-communication specialist with responding to, tracking, and reporting on electronic communications from guests, which are primarily received by email. Depending on what the guest requests, responding to an electronic communication could require modifying or booking a reservation. The e-communications specialist also maintains and manages the hotel's external site ratings, such as, Trip Advisor, Expedia, and Booking.com ratings. The e-communications specialist reads reviews, responds, and then reaches out to those departments that may have had service failures to advise them of the situation. The e-communications specialist uses the LMS system in performing this function. The e-communications specialist wears business casual attire.

Groups and wholesale agent/project leads supervise and coordinate wholesale, sales, and room reservations employees and complete assigned projects. When performing duties of room reservation employees, they perform check-ins, check-outs, and audit functions over the reservations for groups that are in the system, or "pre-key" groups. They create key packets to give to a group leader or tour guide. In certain situations they meet groups at the curbside, take them at the desk, have one-on-one meetings with the tour leader, issue them keys, check to make sure they are satisfied, and receive and process their wake-up calls. The groups and wholesale agents/project leads also process rooming lists. They wear uniforms similar to those of guest services representatives.

Based on the record as a whole, I find that the employees in the petitioned-for unit share similar job functions, duties, and skills. I further find that the employees in the petitioned-for unit have distinct and separate job functions, duties, and skills from the

employees the Employer contends must be included in the unit, in that they carry greater responsibility for in-person interaction with guests.

C. Interchange and Contact among Employees

Interchange refers to temporary work assignments or transfers between two groups of employees. Frequent interchange “may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills.” *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. *Executive Resource Associates*, 301 NLRB 400, 401 (1991), citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1081).

In this case, the record reveals evidence of significant employee interchange between the employees the parties agree are in the unit. Specifically, hotel night auditors work as guest services representatives about two days per week and do not typically work in any other classifications. In fact, guest services representatives progress to the hotel night auditor position. Similarly, there is no evidence that VIP services representatives work in any classifications other than guest services representative positions. When the front desk line is long, the VIP services representatives assist and vice versa. Guest services representatives typically help VIP services representatives when there are large events taking place, like a blackjack tournament or Super Bowl events, or when there is a large number of VIPs. Furthermore, in the mornings, either a VIP services supervisor or one of the other VIP services representatives will talk to the front desk managers about how many VIPs are due in or due out and if they expect to need assistance or anyone to cover lunch breaks. The record fails to reveal the same level of temporary interchange between employee in the petitioned-for unit and the additional employees the Employer contends must be included in the unit.

Also relevant for consideration with regard to interchange is whether there are permanent transfers among groups of employees. However, the existence of permanent transfers is not as important as evidence of temporary interchange. *Hilton Hotel Corp*, supra. The record reveals little evidence of permanent transfers between the employees the parties agree are in the unit and the employees the Employer seeks to include. In the last six months, no employees in the additional positions the Employer contends must be included in the unit have transferred to guest services representative, hotel night auditor, or VIP services representative positions, or vice versa.

Also relevant is the amount of work-related contact among employees, including whether they work beside one another. Thus, it is important to compare the amount of contact employees in the unit sought by a union have with one another. See, e.g., *Casino Aztar*, 349 NLRB 603, 605-606 (2007).

There is evidence of significant work-related contact between the employees the parties agree are in the unit as well as evidence that the petitioned-for unit employees work in

the same areas. The evidence of work related contact includes the fact that the hotel has two front desk areas, where both guest services representatives, VIP services representatives, and sometimes hotel night auditors work. In both areas, the VIP services representatives' work area is in close proximity to the guest services representatives' work area. Moreover, guest services representatives and VIP services representatives work together when needed during busy periods or when large groups come in or large events are taking place. Additionally, the management office for the hotel management and VIP services divisions are in the same area in the Gold Tower. Although VIP services representatives work at a separate VIP desk, they start and end their shifts at the front desk. Furthermore, hotel night auditors work together with three or four guest services representatives two days a week.

There is little evidence of work-related contact between the employees the parties agree are in the unit and the employees the Employer seeks to include in the unit, and little or no evidence that they work in the same areas. Reservations sales agents, the e-communications agent, and groups and wholesale agents/project leads all work in the same area in the Spa Tower on the fourth floor—far removed from the front desk area. However, the groups and wholesale agents/projects leads go to the front desk often when groups check in. Further, depending on the volume on a particular day, the group and wholesale agents/project leads will either work behind the front desk awaiting for groups or stay in the room reservations offices where they wait to be called when a group arrives. Guest services call center agents occasionally perform work at the front desk based on need, as when there is a higher-than-usual volume of guests needing limo dispatching. Reservations sales attendants typically only communicate with guest services representatives if a guest needs a same-day reservation.

Similarly, PABX agents work in a separate area from the front desk. Only PABX employees work in their work area. An elevator must be used to access their work area, which is above the casino. Near the PABX work area, there are administrative offices, IT offices, and the casino dealers' lounge/break area.

The telemarketing representative works on the second floor in the Gold Tower in an area separate and away from the work areas of the employees in the petitioned-for unit and the employees the Employer contends must be included.

Hotel night auditors rarely see employees in certain job classifications ,such as guest services call center agents, reservation sales attendants, and PABX employees, because employees in those classifications do not work at the same times.

Based on the record as a whole, I find that there is significant interchange and contact among employees in the petitioned-for unit. I further find that there is comparatively little interchange and contact between employees in the petitioned-for unit and employees in the Employer's proposed unit.

D. Common Supervision

Another community-of-interest factor is whether the employees in dispute are commonly supervised. In examining supervision, most important is the identity of employees' supervisors who have the authority to hire, to fire or to discipline employees (or effectively recommend those actions) or to supervise the day-to-day work of employees, including rating performance, directing and assigning work, scheduling work providing guidance on a day-to-day basis. *Executive Resources Associates*, supra at 402; *NCR Corporation*, 236 NLRB 215 (1978). Common supervision weighs in favor of placing the employees in dispute in one unit. However, the fact that two groups are commonly supervised does not mandate that they be included in the same unit, particularly where there is no evidence of interchange, contact or functional integration. *United Operations*, 338 NLRB at 125. Similarly, the fact that two groups of employees are separately supervised weighs in favor of finding against their inclusion in the same unit. However, separate supervision does not mandate separate units. *Casino Aztar*, supra 349 NLRB at 607, fn 11. Rather, more important is the degree of interchange, contact and functional integration. *Id.* at 607.

The record reveals that guest services representatives and hotel night auditors report to the Hotel Manager, while the VIP agents report to the VIP Services Manager. However, both the Hotel Management and VIP Services Managers report to the Hotel Director of Operations, who also supervises the other managers in the hotel operations department.

Employees in the petitioned-for unit share a common supervisor in that they eventually report to Hotel Director of Operations, but their intermediate supervisors are different. The same is true for employees in the Employer's proposed unit. However, the record shows that VIP services representatives go to assistant front desk managers when their supervisor is away, and assistant front desk managers sometimes check in on VIP services representatives at the VIP desk when their supervisor is away.

E. Degree of Functional Integration

Functional integration refers to when employees' work constitutes integral elements of an employer's production process or business. Thus, functional integration exists when employees in a unit sought by a union work on different phases of the same product or as a group provides a service. Another example of functional integration is when the employer's work flow involves all employees in a unit sought by a union. Evidence that employees work together on the same matters, have frequent contact with one another, and perform similar functions is relevant when examining whether functional integration exists. *Transerv Systems*, 311 NLRB 766 (1993). On the other hand, if functional integration does not result in contact among employees in the unit sought by a union, the existence of functional integration has less weight.

The record reveals that the employees in the petitioned-for unit are functionally integrated because they, together, are responsible for the front desk function for guests including VIP guests. They deal with guests checking in and out from the hotel and take care

of their needs when they come to the front desk during their stay. Although hotel night auditors perform some work that does not involve guest interaction, this work is ancillary to the function performed by the guest services attendants. Accordingly, I find that the petitioned-for unit is functionally integrated.

The additional employees the Employer contends must be included in the unit have some guest interaction, though it is primarily by telephone. The work they do on marketing, reservations, and taking care of in-house guest needs by telephone in some sense supports the direct guest interaction work done by the employees in the petitioned-for unit. However, it is true of nearly every work place that the whole cannot function without its parts. Here, the degree of functional integration among the employees in the petitioned-for unit, who are largely responsible for interacting with and checking in and out guests at the hotel, is much greater than the degree of functional integration among employees in the unit the Employer contends is appropriate, who perform a variety of other functions.

F. Terms and Conditions of Employment

Terms and conditions of employment include whether employees receive similar wage ranges and are paid in a similar fashion (for example hourly); whether employees have the same fringe benefits; and whether employees are subject to the same work rules, disciplinary policies and other terms of employment that might be described in an employee handbook. However, the facts that employees share common wage ranges and benefits or are subject to common work rules does not warrant a conclusion that a community of interest exists where employees are separately supervised, do not interchange and/or work in a physically separate area. *Bradley Steel, Inc.*, 342 NLRB 215 (2004); *Overnite Transportation Company*, 322 NLRB 347 (1996). Similarly, sharing a common personnel system for hiring, background checks and training, as well as the same package of benefits, does not warrant a conclusion that a community of interest exists where two classifications of employees have little else in common. *American Security Corporation*, 221 NLRB 1145 (1996).

The record reveals that employees who the Employer urges must be included in the unit share common terms and conditions of employment with employees who the parties agree are in the unit. These include having the same meal areas, having the same pay periods, being paid by hourly wages, being expected to comply with the same policies and procedures, in some cases being required to maintain a gaming license, being paid through direct deposit or pay card, and enjoying the same fringe benefits including pension, health and supplemental insurance.

G. Bargaining History

If it exists, bargaining history is also relevant. Particularly when bargaining history is recent and applicable to the parties involved in the case, it is given substantial weight. See, generally Section 12-220 of An Outline of Law and Procedure in Representation Cases. On the other hand, the Board will not adhere to bargaining history “where the unit does not conform reasonably well to other standards of appropriateness.” *Crown Zellerbach Corp.*, 246

NLRB 202,203 (1979). For a case where the Board refused to accept bargaining history as controlling see, *Turner Industries Group, LLC.*, 349 NLRB 482 (2007). The Employer cites to *ADT Security Services, Inc.*, 355 NLRB 1388 (2010)(29-year bargaining history), *Children's Hospital of San Francisco*, 312 NLRB 920, 929 (1993)(40-year bargaining history), and *Fisher Broadcasting*, 324 NLRB 256, 262 (1997)(48-year bargaining history), to support its position that the traditional community of interest factors tend to support finding of a larger or single unit as being appropriate where there is significant bargaining history. However, as noted below, there is little to no bargaining history between the parties in this case.

There is evidence that, beginning in the 1980's, a multiemployer association called the Nevada Resort Association was party to collective-bargaining agreements with various labor organizations, including Petitioner's predecessor Teamsters Local 995. However, if the Employer was a member of the Nevada Resort Association, it was only until about 1983. Further, the Nevada Restaurant Association stopped negotiating on behalf of its members in 1986 or 1987, and its members began bargaining individually. Although other employers might have entered into collective-bargaining agreements covering units similar to the one the Employer contends is appropriate, there is no evidence that, since then, there is any bargaining history with respect to the particular job classifications at issue at the Employer's facility.

The Employer argues that this evidence establishes an industry history of bargaining in units similar to the one proposed by the Employer. However, I find that such industry history, which is specific to particular parties, workplaces, and time periods, has more limited bearing in a community-of-interest analysis than collective-bargaining history with respect to the particular bargaining unit at issue.

IV. CONCLUSIONS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.⁴

⁴ The parties stipulated, and I find, that the Employer is a Nevada corporation that is engaged in and has been engaging in operating a hotel and casino. During the last 12-months, the Employer has had gross revenues in excess of \$500,000. During this same period, the Employer has purchased and received goods and products in excess of \$50,000 directly from firms located outside the State of Nevada. Accordingly, I find that the Employer is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Board's assertion of jurisdiction in this matter will accomplish the purposes of the Act.

3. Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.⁵

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time guest services representatives, hotel night auditors, and VIP services representatives employed by the Employer at its facility in Las Vegas, Nevada; excluding employees already represented by other labor organizations, all other employees, guards, and supervisors as defined in the National Labor Relations Act.⁶

There are approximately 48 employees in the unit found appropriate.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by General Teamsters, Airline, Aerospace and Allied Employees, Warehousemen, Drivers, Construction, Rock and Sand, Local 986, International Brotherhood of Teamsters.

A. Election Details

The election will be held on Friday, March 30, 2018 from 7:00 a.m. to 10:00 a.m. and from 5:00 p.m. to 8:00 p.m. in the St. Andrews Convention Room at the Employer's facility, located at 129 East Fremont Street, Las Vegas, Nevada.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **March 11, 2018**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

⁵ The parties did not stipulate to Petitioner's labor organization status, but that issue was mentioned without objection when the hearing officer admitted Board Exhibit 2 into evidence. Moreover, the Employer did not contest Petitioner's labor organization status in its statement of position or at any other time. Accordingly, I find the Petitioner to be a labor organization within the meaning of Section 2(5) of the Act.

⁶ The unit found appropriate conforms substantially with the unit sought by Petitioner.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **March 28, 2018**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

VI. RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

GNLV Corp. d/b/a Golden Nugget
Las Vegas
Cases 28-RC-216070

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Phoenix, Arizona, this 26th day of March 2018.

/s/ *Cornele A. Overstreet*

Cornele A. Overstreet, Regional Director